

Background:

- **State Policy Activities** — TCDD staff will provide an update regarding recent state public policy staff activities. Discussion topics include:
 1. **Legislative outcomes (behind Tab 12)**
 2. **Public comments submitted during the quarter:**
 - A. Policy Council for Children and Families Letter to HHSC Commissioner Regarding STAR Kids (July 12, 2017)
 - B. [Public Comment — TEA Proposed Rules to Adopt 2017 Performance-Based Monitoring Analysis System](#) (June 29, 2017)
 - C. [Public Comment — Medicaid Therapy Rate Reductions](#) (May 31, 2017)
 - D. [Public Comment — Home and Community-based Services and Texas Home Living Rate Reduction](#) (May 17, 2017)
- **State Supported Living Centers Update** — TCDD staff will provide an update regarding recent SSLC issues. Discussion topics include:
 1. **SSLC legislative outcomes (behind Tab 12)**
 2. **100-year anniversary of Austin SSLC**
- **Federal Policy Activities**— TCDD staff will provide an update regarding potential changes to Medicaid associated with various Affordable Care Act repeal proposals.

Public Policy Committee — Agenda Item 7**Expected Action:**

The Committee will receive updates on these items and may make recommendations for consideration by the Council.

Council — Agenda Item 14. A.**Expected Action:**

The Council will receive a report on the Public Policy Committee discussion.

July 12, 2017

Executive Commissioner Charles Smith
Texas Health and Human Services Commission
Brown Heatly Building
4900 North Lamar
Austin, Texas 78751

Dear Mr. Smith,

The Policy Council for Children and Families has been tasked by Rule §351.815 to make recommendations regarding the implementation and improvement of the STAR Kids managed care program. More than 60% of voting Council members are parents of children with disabilities who understand that one of the most important things to families is certainty in the process. STAR Kids is new and with any new program, there is a lack of clarity and certainty in some of the newly established processes. Given the importance of access to quality, healthcare and long-term supports for children with disabilities uncertainty can be untenable to families whose children depend on the system to survive. We are committed to assisting the Commission to make STAR Kids work for children and families. We respectfully submit the following recommendations.

Medically Dependent Children Program (MDCP) Medical Necessity (MN) Denials

The Health and Human Services Commission (HHSC) made a sound decision when STAR Kids rolled out in November of 2016 to clone MDCP eligibility for an additional 12 months for those children whose MDCP plan year ended between August 1, 2016 and April 30, 2017 to allow the new Medicaid service delivery system a chance to stabilize and to ensure continuity of care for children with medically complex conditions. This Continuity of Care provision was critical to medically fragile children and their families.

Now that this provision has expired, we are hearing of a significant increase in denials of eligibility due to lack of medical necessity for children who are being reassessed as well as for children who are being offered MDCP from the Interest List. Based on the May denials, HHSC decided that if a member's Individual Service Plan (ISP) is set to expire May 31, 2017 and the child's STAR Kids Screening and Assessment Process, up to and including final processing of the ISP, has not been completed, their eligibility will be extended for 30 days. We support the direction taken by HHSC and respectfully request that HHSC consider the following

recommendations with regards to MDCP:

1. Extend by a minimum of 60 days the eligibility of any member who loses medical necessity based on reassessments completed in June through August to allow time for HHSC to examine the data and determine the cause of the increase in denials.
2. Extend by 30 days MDCP eligibility for any child whose Screening and Assessment Instrument (SAI) has not been completed due to no fault of the family.
3. Track the MN denials of current waiver recipients as well as MN denials for those being offered services from the interest list to better understand the issue. Compare MN denial rates to historical denial rates, excluding the increase in denials that occurred during a six-month period in 2014 – 2015 when the internal review of MN Level of Care changed. At a minimum, provide the tracking data to the Policy Council for Children and Families and the STAR Kids Managed Care Advisory Committee.
4. Closely review the STAR Kids SAI for those who have been denied and compare the information on the tool to clinical information provided by the child's family and/or doctor/provider. Call the families to make sure nothing is missing. Utilize HHSC Utilization Review nurses in the review.
5. Based on the outcome of HHSC's data review, conduct training on medical necessity reviews and documentation for Health Plan and Texas Medicaid and Healthcare Partnership assessors.
6. Ensure the MDCP MN eligibility criteria is not more stringent than the MN criteria applied to adults in the STAR Plus waiver.
7. Ensure the MDCP MN eligibility criteria is not more stringent than the eligibility for nursing facility admission.
8. If an individual has been receiving MDCP services for years and is now determined not to meet medical necessity even when there has been no change in the child's condition, offer the individual services from a more appropriate waiver such as Community Living Assistance and Support Services (CLASS) or Home and Community-based Services (HCS).
9. HHSC should create an informational piece for families to explain in laymen's terms a general overview of medical necessity for the MDCP waiver. The brochure should include examples and clearly state what is needed to qualify for the waiver.
10. HHSC should provide written guidance to families and physicians about what additional information needs to be provided by the doctor when eligibility is pending denial.

School Health and Related Services (SHARS)

There is currently a question about who is responsible for paying and contracting for nursing while the child is in school; the STAR Kids Health Plan or SHARS. Some

STAR Kids Health Plans are asking parents the exact schedule of when the child is in school and who provides the care and then subtracting the time the child is in school from the amount of assessed medically necessary Private Duty Nursing (PDN) hours.

The training of nurses by parents on a child's condition and exact care is not an easy task and something that requires extensive time and effort. Understanding an individual child's unique needs and signs and symptoms is not always intuitive. Parents only trust a nurse after having spent time choosing and training them. This trusted nurse should be able to accompany the child anywhere in the community including school. In addition, children who require PDN are often absent from school or get sent home from school frequently due to illness or their medical condition. Their PDN nurse can be flexible and go home with the child or stay with the child at home if needed on any day. This is not possible with a SHARS nurse nor could you easily get Prior Authorizations for PDN from the STAR Kids Health Plan on that kind of an emergency, albeit frequent basis. Furthermore, there is no way a home health agency could possibly find a nurse who is trained on the child's care with an hour's notice:

1. Allow parents to choose whether to use SHARS or STAR Kids PDN while their child is in school.
2. Request HHSC send out a policy clarification to the 10 STAR Kids Health Plans directing them to allow the provision of PDN to the child in the community including a child's school.
3. Simplify and standardize a process that demonstrates non-duplication of STAR Kids, PDN and SHARS Nursing removing any undue burden on the family and barriers that delay or prevent a child from receiving STAR Kids PDN while at school.
4. Quantify, track and monitor any increase in homebound education status or removal from school with no educational services for children who qualify for PDN through the STAR Kids SAI.

Access to Pediatric Therapy

The Policy Council for Children and Families is concerned that families are experiencing a difficult time accessing Medicaid funded therapy services for their children due to cuts to provider reimbursement rates. These cuts affect children in STAR Kids and children receiving services from Early Childhood Intervention. We are particularly worried about access to therapy for children living in rural areas due to skilled therapists leaving the profession or transitioning to adult services. We are also worried that proposed reductions to the rate paid to therapy assistants will

result in a loss of bilingual therapy assistants in a state with a large population of people over the age of 5 whose primary language is Spanish. Approximately one third of households in Texas speak a language other than English and approximately 50% of children in Texas public schools are Hispanic.

If cuts continue to be made, Texas will find itself in a crisis, where children are not provided appropriate services and will ultimately become more dependent on state support services that cost the state more money over the course of the child's life. The Policy Council for Children and Families urges HHSC to consider alternative options which would better serve the most fragile children in Texas:

1. Delay the proposed therapy rate cuts until HHSC has the time to carefully consider the impact of the cuts on access to care.
2. Make policy changes to manage therapy utilization without a detrimental reduction in reimbursement for services.
3. Do not change the rate methodology for home health therapy from encounters to units. The proposed change from encounters to units does not allow the treating professional to determine the amount of time it takes to address a child's therapeutic needs and will potentially result in compromised access to care.
4. Make policy changes to increase standardization of eligibility and authorization among Managed Care Organization's (MCO's) as well as guidelines and limits for contracted reimbursement rates to providers by MCO's.
5. Reduce administrative burden on physicians including initial authorization requests on behalf of the rendering therapy provider.
6. Study the data and changes in utilization of services since policy changes in May 2016 and subsequent decreases in reimbursement rates.
7. Consider the development of an enhance rate for therapy due to language barriers and the need for bilingual therapists or therapy assistants.

Appeals of Denials

The Policy Council for Children and Families has received feedback from families about issues with filing Medicaid appeals. For services to continue during the appeal process, an individual must request the appeal within 10 days from the date of the action notification letter. By the time the families receive the letter some of the 10 days have passed leaving the family with a very small window of time for the actual filing of the appeal. In addition, there are issues with the communication process

between all parties. Families often do not get notice when their child's MDCP case is placed in pending denial status due to lack of documentation or administrative errors or technicalities with the paperwork. We request HHSC consider the following recommendations:

1. Modify the appeals language to read "10 business days" from the date of the action notification to ensure families have appropriate time to file the appeal and ensure continuation of services pending the outcome of the fair hearing.
2. Require denial of service notifications be in the mail within 1 business day of a denial decision to ensure members have time to file an appeal request and continue services as applicable.
3. Redesign denial letters to explain in plain language for families why the denial occurred, what is needed to meet medical necessity requirements, and relevant deadlines for appealing the denial, including information on how to maintain eligibility through the appeal process.
4. Ensure families and providers receive prompt notification of any case that is placed in pending denial status.
5. Extend the time frame a case is in pending denial status to allow the family and the provider to get the required documentation necessary to prove eligibility.

Uniform Authorizations — Transparency and Certainty in Process

The Policy Council for Children and Families is concerned about the lack of certainty and clarity in the prior authorization processes in STAR Kids as well as burdensome requests for information from MCOs. Prior to the roll out of STAR Kids, policies and prior authorization processes were set by the state. Now families are working with multiple managed care organizations who each have their own set of authorization requirements and review processes some of which are onerous to providers and families and which cause delays in authorization for needed services. We offer the following recommendations:

1. Evaluate documentation requirements for prior authorizations across MCOs so that an individual may access medically necessary services without discrimination or inconsistencies between MCOs.
2. Decrease undue administrative burdens to providers, physicians and families in the prior authorization process, such as requiring the referring physician to submit the prior authorization request on behalf of the rendering provider, including copies of the last Primary Care Provider or subspecialty visit notes, the Ages and Stages Questionnaire or Parents' Evaluation of Development

Status, copies of audiology testing, copies of all clinical notes for a 2-week period, etc.

3. Publicly make available the prior authorization processes and documentation required for services and remove uncertainty in the process for families.

Durable Medical Equipment (DME) and Supplies

Some families are being told by their MCO that they must utilize a certain vendor for their durable medical equipment and medical supply needs even though the MCO's network of providers includes a choice of other providers. This practice is disruptive to the child's care and does not conform to language in the STAR Kids contract that requires an MCO to have more than one provider nor to language in the contract related to significant traditional provider protections for a period of three years. Other families are being told by their MCO that they can still choose to use another DME provider, but if they do, they must undergo a more burdensome prior authorization process and potentially experience a delay in the provision of the equipment and supplies. Having choice of more than one vendor is especially important to families of children who live in rural parts of Texas where prompt access to supplies and equipment is hindered by distance:

1. HHSC should send a clarification letter to MCOs instructing them to allow families to choose whichever DME vendor they prefer from the list of network providers.
2. HHSC should clarify for the MCOs the Significant Traditional Provider (STP) protections in STAR Kids.
3. HHSC should ensure that families always have a choice of providers even after the expiration of the STP protections.
4. HHSC should not allow an MCO to place a more stringent prior authorization process on a service just because the provider is not the preferred DME provider.

Other Provider Network Issues

Some families are experiencing issues accessing services from their significant traditional provider because their provider is waiting on the approval and execution of their contract by the MCO. Children who have been served by providers are now finding that their provider is not in network due to a delay in the execution of the contract:

1. Allow providers who are currently awaiting approval for a contract with a STAR Kids MCO to obtain a Letter of Agreement or single case agreement from the MCO to continue to provide services while the credentialing process for the contract is being finalized.

2. Clarify and set a reasonable timeframe for the execution of contracts with STPs.

Individual Service Plans and STAR Kids Screening and Assessment Instruments

Families of children in STAR Kids have reported that they have not received their Individual Service Plan outlining services needed to meet the child and the family's goals. In addition, others who have requested a copy of their STAR Kids Screening and Assessment Instrument have not received them:

1. Ensure that MCOs are sending families and providers a copy of the child's ISP and/or placing the ISP in the provider and family portals.
2. The MCOs should consider having the Service Coordinator provide family portal training to families during one of their face to face visits.
3. Have all MCOs place the STAR Kids SAI on the family portal for families to access and promptly mail a copy to those families requesting a printed copy.

STAR Kids Managed Care Advisory Committee Extension

The STAR Kids Managed Care Advisory Committee advises HHSC on the establishment and implementation of the STAR Kids Medicaid managed care program. This committee is scheduled to expire at the end of 2017. Stakeholders, including MCO's, value the recommendations of the Committee and believe it should continue its work: The Executive Commissioner of HHSC should extend the STAR Kids Managed Care Advisory Committee through September 1, 2019.

The Policy Council for Children and Families looks forward to continuing our work with HHSC on the development and strengthening of STAR Kids.

Sincerely,

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Leah Rummel, Chair
Policy Council for Children and Families

Cc: Jami Snyder, Medicaid Director